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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,294	08/09/2001	Markus Gebhardt	ALF-66	2677

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EXAMINER
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WALTON, GEORGE L

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 06/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/925,294**

Applicant(s)  
**Gebhardt et al**

Examiner  
**George L. Walton**

Art Unit  
**3753**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Jun 7, 2001
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 3/1, and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of McGillis et al (2,569,110 or 3,078,867) or McGillis. The above claims are readable on the patent to either McGillis et al or McGillis with the single exception of utilizing the claimed invention for the fuel tank of a motor vehicle. Such intended use is afforded no patentable weight, since the patents to McGillis et al or McGillis teaches the utilization of its valve in a fuel tank environment for

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gasoline trucks and filling tanks. Whether the claimed valve is utilized in a fuel tank for a motor vehicle or utilized in the environment for gasoline trucks and filling tanks would be obvious to one of ordinary skill in the art, at the time the invention was made. In the patent to McGillis et al, Patent No. 2,569,110, the flap valve is readable on elements 36, 48 and the lever rod and float are readable on elements 60, 64, 66, 68, 70, 72 and 74. Elements 23 and 26 are readable on the carrier. The outlet sealing edge is readable on element 40. The flow diverter is readable on element 76. The bearings are readable on elements 48 and 50. The central opening is readable on the outlet at element 40.

In the patent to McGillis et al, Patent No. 3,078,867, the flap valve is readable on elements 16 and 17 and the lever rod and float are readable on elements 23-27. Elements 4 and 31 are readable on the carrier. The outlet sealing edge is readable on elements 11 and 14. The flow diverter is readable on element 29. The bearings are readable on elements 18 and 19. The central opening is defined by elements 11 and 14.

In the patent to McGillis et al, Patent No. 3,963,041, the flap valve is readable on elements 68 and 72 and the lever rod and float are readable on elements 92-94, 96, 98 and 88. Element 46 is readable on the carrier. The outlet sealing edge is readable on elements 48 and 62. The flow diverter is readable on element 78. The bearings are readable on elements 66 and 74. The central opening is defined by elements 11 and 14.

Claims 2 and 3/2 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of McGillis et al or McGillis in view of Gallier. The above claims are readable on either patent to McGillis et al or McGillis with the single exception of having a escape or bleed port or bore above

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filling valve. The patent to Gallier teaches the above exception. In view of the teaching of Gallier, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to provide the above exception to either patent to McGillis et al or McGillis as taught by element 12, if desired. Such teaching provides no unobvious or unexpected result.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over either one of McGillis et al or McGillis in view of Scaramucci. The above claims are readable on either patent to McGillis et al or McGillis with the single exception of having a specific type of flap or check valve with a pair of pivot pins and cross pieces to received within bearing cavities on a wall portion of a valve body. The patent to Scaramucci teaches the above exception. In view of the teaching of Scaramucci, it would be obvious to one of ordinary skill in the art, at the time the invention was made, to provide the above exception to either patent to McGillis et al or McGillis to replace their respective flap pins and bearing member as taught by elements 24, 48 and 56, if desired. Such teaching provides no unobvious or unexpected result.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to George L. Walton whose telephone number is (703) 308-2596. Upon receipt of this action, the applicant and/or attorney is invited to contact the examiner to discuss the above

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action. My normal business hours are between 8:30 AM to 5:00 PM. Should any attempt after one business day to reach the examiner by telephone is unsuccessful, you may contact the supervisor, Mr. Mikado Buiz on (703) 308-0871. My fax number is (703) 308-7765.

Any inquiry of a general nature or relating to the status of this application and any pre-examination proceedings on this application should be directed to the receptionist whose telephone number is (703) 308-0861.

GLW  
June 02, 2003

  
**GEORGE L. WALTON**  
**PRIMARY PATENT EXAMINER**  
**TECHNOLOGY CENTER - 3700**  
**ART UNIT - 3753**